

### **REMARKS**

Claims 1 and 3-10 are pending in the application and were rejected on a new basis, not previously presented. It is Applicants position that the new basis of the rejections does not present a prima facie showing of obviousness because the references, even in combination, fail to meet all the limitations of the claims.

In response to the Examiner's objection about the Abstract, the Abstract has been amended to replace the word "said" and to arrange the format as a single paragraph. Thus it is believed that the Application is in condition for allowance.

### **35 U.S.C. § 103**

Claims 1 and 4-10 were newly rejected under 35 U.S.C. 103(a) as being unpatentable over Horn, U.S. Pat. No. 5,076,210, in view of Mickelsen et al., U.S. Pat. No. 4,337,727. Applicant asserts that no prima facie showing of obviousness has been presented for the following reasons.

Claim 1 recites that a first side of the cage is provided with openings and a second side, located opposite the first side, is provided with couplings for attaching the cage to a transporter. Claim 1 further recites that additional sides of the cage are devoid of openings. As for the prior art, Horn teaches a trough having two *closed* sides of a cage (24), opposite each other, (the end walls) which have couplings for attaching the cage to a carousel and having the other sides of the cage formed by a longitudinal *screen* structure 22 (Figs. 1-8) (the side walls). As to the other prior art reference, the Examiner stated that: "Mickelsen et al. teach modular underwater cages having mesh side walls. It would have been obvious to provide that the second side wall of Horn have openings as taught by Mickelsen et al." In this statement, the Examiner equated the structure of Mickelsen's screen mesh with the claimed limitation for "openings" in claim 1 of the present invention, yet the Examiner described the side walls of the Horn cage as "other additional sides of said cage being devoid of openings". (See Office Action at page 3, lines 3-4). Therefore, the Examiner's rationale rests on the contradictory analysis that the mesh side walls of Mickelsen et al. meet the limitation for "openings" but the screen side walls of Horn do not meet the limitation for "openings". Only by making such a contradiction was the Examiner able to state that Horn met the claim 1 limitation that *additional sides of the cage are devoid of*

openings. This contradiction does not provide a rational basis for the obviousness rejection. In reality, Horn cannot possibly be interpreted to meet all the claimed limitations for the required walls with openings and the required walls devoid of openings; nor can the combination of Horn and Mickelsen et al.

The Examiner's rationale is faulty on yet another basis. Horn teaches a trough 21 having two closed sides of a cage, opposite each other, (the end walls) and having the other sides of the cage formed by a longitudinal screen structure 22 (Figs. 1-8) (the side walls). The screen, by its very nature, allows the free circulation of water, as is visually shown in all the figures in Horn and as comprehended by use of the term "screen". Yet, the Examiner reasoned that "[it] would have been obvious to provide that the second side wall of Horn have openings as taught by Mickelsen et al., in order to better facilitate the free circulation of water throughout the enclosure." Since the screen structure of Horn already allows the free circulation of water, there would have been no reason to make the adaptation required by the Examiner's grounds for the rejection. Therefore, the Examiner has not provided the necessary rational basis for making any modification of the Horn cages.

Still further, according to the Examiner's reasoning, the limitations in claim 1 which require a first side having openings and a second side having couplings are met by Horn's end walls (24). (See Office Action at page 3, first paragraph). However, claim 1 recites the further limitation that *said first side faces upwards,...faces sideways,...and faces downward; the positions being achieved by engagement of the cage onto the transporter*. As seen in the Horn's figures 1-6, Horn's end walls 24, only face sideways. The manner in which they are engaged on the carousel prohibits end walls 24 from facing upward or downward. The Examiner's combination of Horn and Mickelsen does not cure this defect. Therefore, the Examiner has not presented a prima facie showing of obviousness.

For similar reasons, the limitation of claim 5, which requires locking the cage into position with the first side of the cage facing upward is not met by the combination of references. Similarly the limitation of claims 7-10, which require the first side of the cage to face upwards when the upper end of the transporter has a vertical position and the first side of the cage to face

downward when the lower end of the transporter has a vertical position is not met by the combination of references.

For all these reasons, it is respectfully requested that the rejection of the claims be reconsidered and withdrawn.

Claim 3 was rejected under 35 U.S. C 103(a) as being unpatentable over Horn in view of Mickelsen et al. as applied to claim 1 and further in view of Neff, U.S. Pat. No. 4,019,459. Applicant disagrees with the rejection for the following reasons.

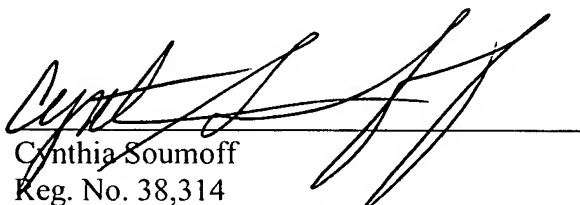
Claim 3 incorporates the limitations of claim 1 which, as discussed above, are not fully provided for by Horn in view of Mickelsen et al. The further combination with Neff does not cure this defect. The combination of the three references as detailed by the Examiner does not provide for a cage having a first side provided with openings and a second side, located opposite the first side, provided with couplings for attaching the cage to a transporter, wherein the first side can be repositioned by the transporter to face upward or downward.

In view of all the stated deficiencies, Applicant requests that the rejection be reconsidered and withdrawn.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should she believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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